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SUITE 800
WASHINGTON, DC 20005

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APR 26 2006

OFFICE OF PETITIONS

In re Patent No. 6,995,258	: DECISION ON APPLICATION
Rossi et al.	: FOR PATENT TERM ADJUSTMENT
Issue Date: February 7, 2006	: and
Application No. 09/864,873	: DECISION ON REQUEST FOR
Filed: May 25, 2001	: RECONSIDERATION OF
Atty Docket No. 1954-330	: PATENT TERM ADJUSTMENT
	: and
	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION
	:

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed July 15, 2004. Then applicants requested that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from forty-four (44) days to fifty-six (56) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is fifty-six (56) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

This is also a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d) filed April 3, 2006. Patentees request that the patent term adjustment indicated in the patent be corrected from four hundred ninety-one (491) days to six hundred twenty-three (623) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a Patent Term Adjustment of six hundred twenty-three (623) days.

**re the initial Determination of Patent Term Adjustment
at the time of mailing of the Notice of Allowance**

On April 15, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 44 days. On July 14, 2004, applicants timely¹ submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 56 days. The period of adjustment of 56 days pursuant to § 1.702(a)(1) was reduced by 12 days for applicants' failing to respond within three months to the Notice to File Missing Parts of Application mailed July 13, 2001. Applicants dispute this reduction. Applicants state that their response was filed on September 13, 2001, and thus, no applicant delay should have been assessed.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The reduction of 12 days has been found to be incorrect. A review of the application file confirms that applicants' response to the Notice to File Missing Parts of Application mailed July 13, 2001, is of record in the application with a date of receipt by the Office of September 13, 2001. Furthermore, the response included a complete reply to the Notice. The response was received within the three-month period under 37 CFR 1.704(b). Accordingly, no applicant delay should have been assessed. Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is fifty-six (56) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

**re revised Patent Term Adjustment
indicated in the patent**

On February 7, 2006, the above-identified application matured into U.S. Patent No. 6,995,258. The instant request for reconsideration was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 491 days. The initial determination of PTA of 44 days was increased by 449 days for Office delay in issuing the patent after payment of the issue fee and satisfaction of all outstanding requirements and increased by 118 for the Office taking in excess of three years to issue the patent, but decreased by 120 days for patentees' filing of a supplemental oath or declaration after the mailing of the notice

¹ PALM records show that the Issue Fee payment was also received in the Office on July 15, 2004.

Enclosures: Copy of REVISED PAIR screen
Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,995,258 B1

DATED : February 7, 2006

INVENTOR(S) : Rossi et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (491) days

Delete the phrase “by 491” and insert – by 623 days--

PTA Calculations for Application: 09/864873			
Application Filing Date:	05/25/2001	PTO Delay (PTO):	623
Issue Date of Patent:	02/07/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	132
Post-Issue Petitions:	0	Total PTA (days):	623
PTO Delay Adjustment:	132		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
83	04/24/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	12		
82	04/24/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
77.5	01/18/2006	PTA 36 MONTHS	118		
77	02/07/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	449		66
76	12/01/2005	RECEIPT INTO PUBS			
75	12/01/2005	RECEIPT INTO PUBS			
74	12/01/2005	RECEIPT INTO PUBS			
73	12/01/2005	DISPATCH TO FDC			
72	12/01/2005	DISPATCH TO FDC			
71	12/01/2005	DISPATCH TO FDC			
70	07/15/2004	ISSUE FEE PAYMENT VERIFIED			
69	12/01/2005	DISPATCH TO FDC			
68	12/01/2005	DISPATCH TO FDC			
67	12/01/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
66	07/15/2004	ISSUE FEE PAYMENT VERIFIED			
65	11/14/2005	RECEIPT INTO PUBS			
64	11/11/2005	RECEIPT INTO PUBS			
63	10/27/2005	RECEIPT INTO PUBS			
62	10/17/2005	RECEIPT INTO PUBS			
61	10/17/2005	WORKFLOW - QUERY REQUEST - FINISH			
60	09/26/2005	RECEIPT INTO PUBS			
59	09/26/2005	WORKFLOW - QUERY REQUEST - BEGIN			
58	09/23/2005	RECEIPT INTO PUBS			
57	09/21/2005	RECEIPT INTO PUBS			
56	08/30/2005	RECEIPT INTO PUBS			

55	08/29/2005	WORKFLOW - QUERY REQUEST - FINISH			
54	05/19/2005	RECEIPT INTO PUBS			
53	05/19/2005	WORKFLOW - QUERY REQUEST - BEGIN			
52	04/25/2005	RECEIPT INTO PUBS			
51	04/20/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
50	04/15/2005	RECEIPT INTO PUBS			
49	03/21/2005	RECEIPT INTO PUBS			
48	03/01/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
47	02/23/2005	CASE DOCKETED TO EXAMINER IN GAU			
46	12/15/2004	SUPPLEMENTAL PAPERS - OATH OR DECLARATION		120	51
45	07/15/2004	APPLICANT HAS FILED A VERIFIED STATEMENT OF SMALL ENTITY STATUS IN COMPLIANCE WITH 37 CFR 1.27			
44	12/10/2004	RECEIPT INTO PUBS			
42	07/26/2004	RECEIPT INTO PUBS			
41	07/15/2004	WORKFLOW INCOMING PETITION IFW			
40	07/15/2004	ISSUE FEE PAYMENT RECEIVED			
39	06/23/2004	RECEIPT INTO PUBS			
38	05/17/2004	SEQUENCE FORWARDED TO PUBS ON TAPE			
37	05/05/2004	RECEIPT INTO PUBS			
36	05/05/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
35	04/15/2004	MAIL NOTICE OF ALLOWANCE			
34	04/05/2004	ISSUE REVISION COMPLETED			
33	04/05/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
32	04/05/2004	CASE DOCKETED TO EXAMINER IN GAU			
31	04/05/2004	NOTICE OF ALLOWABILITY			
30	03/25/2004	DATE FORWARDED TO EXAMINER			
29	03/19/2004	AMENDMENT AFTER FINAL REJECTION			
28	12/19/2003	MAIL FINAL REJECTION (PTOL - 326)			
27	12/15/2003	FINAL REJECTION			
26	10/07/2003	CORRESPONDENCE ADDRESS CHANGE			
25	10/06/2003	DATE FORWARDED TO EXAMINER			
24	09/17/2003	RESPONSE AFTER NON-FINAL ACTION			
23	08/28/2003	CORRESPONDENCE ADDRESS CHANGE			
22	06/17/2003	MAIL NON-FINAL REJECTION			

21	06/16/2003	NON-FINAL REJECTION			
20	04/04/2003	DATE FORWARDED TO EXAMINER			
19	03/31/2003	RESPONSE AFTER NON-FINAL ACTION			
18	12/31/2002	MAIL NON-FINAL REJECTION			
17	12/30/2002	NON-FINAL REJECTION			
16	10/24/2002	DATE FORWARDED TO EXAMINER			
15	10/21/2002	RESPONSE TO ELECTION / RESTRICTION FILED			
14	09/19/2002	MAIL RESTRICTION REQUIREMENT	56		-1
13	09/19/2002	X-POST-LEGAL COMPLETE REJECTION			
12	09/19/2002	REQUIREMENT FOR RESTRICTION / ELECTION			
11	03/18/2002	X-PRE-LEGAL COMPLETE NEW CASE			
10	08/02/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	01/05/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	10/26/2001	APPLICATION DISPATCHED FROM OIPE			
7	10/25/2001	APPLICATION IS NOW COMPLETE		12	6
6	07/13/2001	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
5	07/12/2001	CORRESPONDENCE ADDRESS CHANGE			
4	07/03/2001	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	06/04/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/25/2001	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	05/25/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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